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**SM**

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/445,046 02/18/00 KOTLARSKI

T 989

EXAMINER

IM22/0727

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ART UNIT

PAPER NUMBER

1744

DATE MAILED:

07/27/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. 09/445,046	Applicant(s) KOTLARSKI ET AL	
	Examiner Gary K Graham	Art Unit 1744	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 June 2001.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. § 119**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

**Attachment(s)**

- |   |  |
|---|--|
| 15) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 20) <input type="checkbox"/> Other: _____                                    |

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 9 and 13, it appears improper to attempt to define a contact force since applicant has not positively claimed a window or wiper arm. Absent the wiper arm pushing the wiper strip against the window, no force exists on the wiper strip. It appears applicant must claim the wiper strip, wiper arm and window to enable development of a contact force. The wiper blade cannot develop force by itself.

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***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5-7, 9-11 and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Arai et al '326.

The patent to Arai discloses the invention as is claimed, including a spring elastic carrying element or backing member (3) supporting a wiper blade strip (1) for movement over a windshield. Note figures 7 and 8 which show, at least under high pressure, the end sections of the wiper blade having a lower contact force compared with a center section thereof. Also, note figure 8 which shows the prior art backing member and wiper blade. Such prior art backing member is loaded centrally and provides high pressure centrally which drops off towards the ends of the backing member, at least under high loading. The figure 8 backing member/blade and graph clearly suggest the limitations of claim 5, specifically under high pressure. Figure 8 also shows an "almost uniform magnitude" in the center.

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With respect to claim 14 note figure 6 which shows the center section having a greater curvature than at least the right end section.

Claims 9-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Appel '770 as evidenced by Arai et al '326.

As applicant has claimed no structure to develop contact pressure, the patent to Appel discloses the invention as is claimed. Appel shows a conventional backing member/blade as is claimed, wherein in a free form state, prior to windshield application, such is prestressed or curved (figs. 1 and 2). The curvature is such that the center section of the backing member has a greater curvature than the ends thereof. Such curvature is provided such that upon application of the backing member/blade to the windshield, a substantially uniform pressure is achieved in the wiper blade. Appel discloses all the structure set forth by applicant. Applicant has only claimed a wiper blade. Thus, the device of Appel will inherently function as is claimed. Indeed, if sufficient pressure is applied to the conventional backing member of Appel, as discussed by Arai figure 8, the contact pressure in the center of the blade would be greater than end sections thereof, just as applicant's. Applicant has set forth no structure for his wiper blade that is not disclosed by Appel.

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*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Arai et al '326 in view of Appel '770.

The patent to Arai discloses all of the above recited subject matter with the exception of the conventional backing member/blade of figure 8 being curved sharper than the windshield to be wiped and having a curvature in a center section sharper than in end sections.

The patent to Appel discloses all of the above recited subject matter.

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While Arai does not disclose the conventional backing member/blade being curved, it clearly must be pre-stressed. Without such pre-stressing, the backing member of Arai could not achieve the pressure profiles as shown in the figure 8 graph. A method of such pre-stressing is known and taught by Appel.

It would have been obvious to one of skill in the art to pre-stress the backing member by curving, as clearly suggested by Appel, to achieve the pressure profiles as is shown. Such curving is a well known and expedient manner of pre-stressing.

### *Response to Arguments*

Applicant's arguments filed June 11, 2001 have been fully considered but they are not persuasive.

As stated above, the prior art backing member of Arai and his own backing member do teach a decreasing pressure profile towards the end of the backing member, see figures 7 and 8 "high pressure". Applicant's statement that Arai fails to suggest such an idea as one skilled in the art would understand the Arai disclosure is not understood. Backing members are curved to help achieve uniform wiping pressure. However, such backing members will not provide uniform wiping pressure for every and all wiper arm pressures. As discussed above, the Appel backing member is disclosed as shaped to provide uniform wiping pressure. However, upon application of sufficient pressure, the backing member of Appel will provide a high pressure in the center of the

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blade with reduced pressure at the ends. Such is clearly suggested by Arai in his figure 8 for conventional backing members/blades. Thus, in those claims where only the wiper blade is claimed, it appears Appel will meet such. Additionally, as set forth above, Arai teaches application of varying forces to conventional backing members/blades such that a pressure profile as claimed is achieved.

### *Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.



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Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Gary K. Graham at 703-308-1270. The Examiner's fax number is 703-872-9546. The fax phone number for this Group is (703) 305-7719. The Examiner can normally be reached Tuesday through Friday.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0651.



**GARY K. GRAHAM**  
**PRIMARY EXAMINER**  
**GROUP 1700**

July 26, 2001  
GKG